REMARKS

This response is intended to be fully responsive to the Examiner's Office Action mailed January 28, 2009. No claim amendments are presented. The Applicants present the following arguments.

It appears that the Examiner has based his arguments upon a document other than the one he identifies. The basis of his rejection cannot reasonably be seen in the cited reference to Allaei (US 6,957,516).

The Examiner helpfully sets out the legal basis for his objection in 35 U.S.C. 103(a), and the analysis he is applying, and then indicates that the "new" prior art he is referring to is a passage in Allaei ('516), namely, Column 1, lines 11-30. He calls this "AAPA." He then identifies the parts of AAPA that disclose features of Claim 35. However, it appears what the Examiner quotes from AAPA and what actually appears in AAPA do not coincide. The following comparison shows the problem.

Examiner's quote	Actual wording	Applicants' comments
AAPA discloses a noise control device for a glass window in a building (lines 11-13)	*Windows normally include one or more transparent panels (or panes), e.g., of glass, plastic, or the like. Windows are used in buildings, automobiles, airplanes, etc. for admitting...*	The disclosure is thus merely that buildings may have glass windows. No "noise control device" is disclosed.
including processing means for detecting in a received signal, a predetermined characteristic of noise external to said building (lines 19-27)	*One technique for reducing sound transmission through a window involves a double-paned window with each of the panes having a different thickness for blocking out noise over a broader range of frequencies than two-paned windows with panes having the same thickness. Another technique involves a two-paned window with each of the two panes having a different density for blocking out noise over a broader range of frequencies than two-paned windows with panes having the same density.*	The alleged quotation in italics in the Examiner's argument is not present. Passive vibration damping material does not radiate signals, in any event.

Examiner's quote	Actual wording	Applicants' comments
For generating a cancellation signal and for supplying said cancellation signal to an audio frequency actuator directly attached to the glass of the window and adapted to couple said signal into the glass in the plane of said face pain (sic) surface to cause the glass to radiate the acoustic antiphase signal into the building to reduce the perceived intensity of the external noise in the building (lines 19-27: *the vibration damping material absorbs the noise from outside and radiates anti-noise signals into the interior*	The passage at lines 19-27 is quoted in full above. For the sake of completeness, the passage from line 27 to line 30 reads: *"For some techniques, a vibration damping material is disposed between two windowpanes of different thickness and/or density for dampening vibrations of either windowpane.*	The alleged quotation in italics in the Examiner's argument is not present. Passive vibration damping material does not radiate signals, in any event.

The *Graham v. John Deere Co.* factual inquiries set out by the Examiner have not been applied in respect of AAPA. The Examiner has not determined the scope and contents of the prior art, but has instead assumed it. The prior art does not contain the matter the Examiner alleges it does. Therefore, the AAPA reference has not been properly applied. No further comments regarding the Shoureshi reference are necessary.

The Applicants respectfully ask the Examiner to reconsider the claims and the comments presented herein and withdraw his rejection.

A Notice of Allowability is requested.

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited on the date shown below with the United States Postal Service, with sufficient postage as First Class Mail (37 CFR 1.8(a)), in an envelope addressed to Mail Stop: RESPONSE/FEE, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: MAY 28 2009

Shirley McIntyre